

REMARKS

Claims 1-3 and 6-57 are pending in the application. Claims 1-3, 6-8, 11-17; 46 and 47 stand rejected by the Office Action. Claims 9 and 10 are objected to and Claims 18-45 and 48-57 are in allowable form, as indicated by the Office Action. Favorable reconsideration and allowance is respectfully requested in light of the following Remarks.

I. Formal Matters.

1. Applicants kindly thank the Examiner for indicating the allowance of Claims 18-45 and 48-57 (at page 5, sub-section 7.).
2. Applicants kindly thank the Examiner for indicating that Claims 9 and 10 contain allowable subject matter if re-written in independent form including the limitations of the base claim and any intervening claims. Applicants have carefully reviewed the rejected and objected subject matter and have chosen to not add new claims or amend the pending claims in order to obtain immediate allowance of the rejected and objected subject matter.
3. Applicants respectfully request that the United States Patent and Trademark Office change the Attorney Docket Number of the cover page for this application to reflect the correct Attorney Docket Number of 65632-0059, not 50107-473.

II. The Claims Define Patentable Subject Matter.

1. Claims 1-3, 6-7, 12-16, and 46 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,189,008 to Eastly et al. ("Eastly"). Applicants respectfully traverse this rejection.

Eastly **does not** disclose, as recited in independent Claims 1 and 46:

- determining unused bandwidth;
- a central content server located in a hub site;
- transmitting content data...on the determined unused bandwidth; and

- carrying subscriber traffic and over which the central content server located in a hub site and the at least one local content server located in a central office communicate;

as cited by the Office Action at page 2, lines 15-19 and page 3, lines 14-20.

Even further, Eastly **does not** disclose, as recited in independent Claim 46:

- transmitting the content data stored on the at least one second server to a data switch;
- integrating the content data...at the data switch via the common link; and
- distributing the integrated data from the data switch to a link to equipment of the at least one end user terminal via a multiplexer,

as cited by the Office Action at page 4, lines 1-9.

At best, Eastly's data link is between the database and the "end point" server such that the subscriber traffic is carried between the end point server and the end users. Even further, Eastly **does not even contemplate or remotely suggest** "determining unused bandwidth" nor "transmitting content data...on the determined unused bandwidth" at all. Applicant has carefully reviewed Eastly's specification and is unable to locate this feature where the Examiner indicates it is taught at Figure 2, col. 6, lines 5-16. Even further, Applicant has performed a computerized word search on the search engine provided by uspto.gov and finds that Eastly's only mention of "bandwidth" is as follows at col. 1, lines 31-36:

"In an upgraded cable system, the ***bandwidth*** of the cable is typically divided into a relatively wide ***bandwidth*** for downstream data transmission (i.e. from the network to the PCs in the households) and a relatively narrow ***bandwidth*** for upstream signaling and telephony. A cable modem incorporates a tuner that separates data signals, broadcast streams and telephony signals."

Eastly **is completely silent** as to any type of teaching related to "unused bandwidth."

Thus, Eastly **clearly fails** to disclose or suggest the Applicant's claimed invention, as recited in Independent Claims 1 and 46. A claim is anticipated only if

each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. See MPEP §2131. For at least this reason, Independent Claims 1 and 46 are allowable over the applied art. Claims 2, 3, 6, 7, and 12-16, which depend directly and indirectly from Claim 1 are also allowable over the applied art. Withdrawal of the rejection is respectfully requested.

2. Claims 8, 11, 17, and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *newly cited* Eastly in view of U.S. Patent No. 6,097,720 to Araujo et al. (“Araujo”). Applicants respectfully traverse this rejection.

Applicants agree with the Office Action that Eastly does not disclose “wherein the multiplexer is a Digital Subscriber Line Access Multiplexer (DSLAM)” (see: Office Action at page 5, lines 4-5). To make up for the admitted deficiencies of Eastly, the Office Action indicates that Araujo teaches the claimed limitation. Applicant respectfully disagrees.

Araujo is completely silent to the deficiencies of Eastly as recited above in Section II, sub-section 1. Thus, because the combination of Eastly and Araujo does not disclose, teach, or suggest the claimed invention, and because Eastly and Araujo is completely silent to all of the claimed invention as recited in independent Claims 1 and 46, the Office Action clearly fails to establish a prima facie case of obviousness (See MPEP §2143). For at least this reason, Claims 8, 11, 17, which depend from independent Claim 1, and Claim 47, which depends from independent Claim 46 are allowable over the applied art, taken singularly or in combination. Withdrawal of the rejection and objection is respectfully requested.

Conclusion

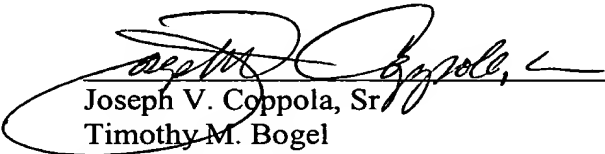
All rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Any fees associated with the filing of this paper should be identified in any accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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Date



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